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NEXT SOVIET TARGET?



Rita being greeted by chief defense counsel Albert Lyman on her release: A steady belief in her innocence.

The Nightingale Case

Now, Rita in Retrospect

An act of royal mercy gave her freedom after 34 months behind bars for a drug crime of which she swore innocence, but her defense lawyers have disclosed that the clemency procedures brought out previously unknown information that might have turned her conviction into acquittal. This data tends to strengthen her testimony that she knew nothing of the heroin she was carrying.

The clemency petition that led to freedom last month for convicted drug courier Rita Nightingale contained fresh facts that her defense counsel believes might have won her an acquittal instead of a 20-year prison term. Although the clemency granted by His Majesty the King was purely an act of mercy and not a reversal of the conviction, which came despite her steadfast denials of guilt, Nightingale's lawyer said the new data may have changed the outcome of her widely publicized trial. And he indicated that the post-trial information tended to corroborate her insistent claims that she knew nothing of the 3.4 kgs. of No. 3 heroin found in her two false-bottom suitcases and a transistor radio when she was arrested

at Don Muang the night of March 19, 1977.

"On the basis of the evidence presented to the court [in December 1977], the court could have gone either way," attorney David Lyman of Tilleke & Gibbins told *WEEK*. "The fact that they found her guilty was not unreasonable on the basis of the evidence presented. But the problem was that the court didn't have all the evidence, because we didn't have all the evidence. We feel that on the basis of the information we received after the fact, even after the first appeal [in July 1978], that had this evidence been presented, the court might just have gone the other way."

Arrested here just before boarding a flight to Paris, two days after arriving

from Hong Kong, the 26-year-old British woman stoutly maintained throughout her trial and 34 months of imprisonment that she had no prior knowledge of the drugs evidently acquired locally and stashed inside the radio and two bags. She said these accessories had been given to her on departure from Hong Kong by her Chinese boyfriend, whom she was to meet in Paris.

Two other Chinese men traveling with her were also arrested — one a friend of Nightingale's sweetheart, the other an alleged drug syndicate security man — but were released three weeks later, reportedly for lack of evidence, and were not available at the trial to confirm or deny her professed ignorance

about the drugs she was carrying. She testified that the drug syndicate must have been responsible for putting the heroin there. The defense's inability to submit supporting evidence on this point seemed to weigh heavily in the court's verdict in the prima facie case, Lyman said.

Lyman, partner and son of Albert Lyman, lead lawyer in this celebrated case and its most active attorney despite his age of 74, declined to give *WEEK* complete details of the new facts put forward in the clemency petition filed through government channels last March. "It's Rita's story," he explained. But Lyman did reveal that information putting a fresh perspective on an alerting telex from Hong Kong (*see below*) and about a missing segment of Nightingale's videotaped arrest at Don Muang both figured in the petition, on which His Majesty acted on Jan. 14.

Attorney Lyman, acting as spokesman for the firm, explained that one of the key items of evidence that prompted action by Thai customs authorities was a telex message sent to Bangkok by the Hong Kong Preventative Service (customs). Narcotics agents in Hong Kong had had Nightingale's Chinese boyfriend under periodic surveillance and by chance this man, who had given her the two suitcases, was spotted at Kai Tak Airport seeing her off. The message was sent naming

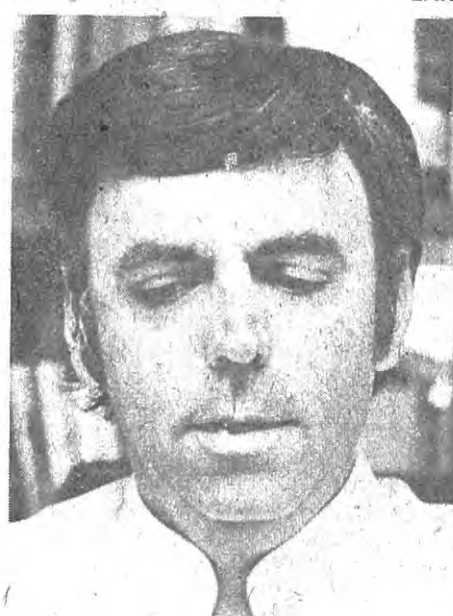
Nightingale and one of two men accompanying her who had been recognized.

"For the judge looking at that telex at the trial," Lyman commented, "it would be a fair assumption that the Hong Kong Preventative Service had some kind of prior knowledge that she was involved in narcotics. But what was not explained to the court was that it was just a lucky guess on their part, pure and simple." He added:

The cryptic Hong Kong telex gave a faulty impression of known drug-running activity

"The Hong Kong Preventative Service had no record of her whatsoever. They had no idea Rita was involved in anything other than the fact that she met a drug courier profile: a white girl who appeared at the airport with two Chinese men, one of whom was a trafficking suspect. But they had no idea she was involved in anything other than the fact that she met this profile."

Of the two men who accompanied her on the flight, only one was known to her as a friend of her boyfriend. "The second man, it was discovered later," said Lyman, "was the drug syndicate's security man, Chan Ming Fai, who was to check that everything went smoothly. Both of these men were



David Lyman: 'Never give up hope.'

arrested here in Bangkok, but within three weeks were released. Why? It was never really explained to the court." Chan was arrested later in Hong Kong while trying to recruit two undercover policewomen to become drug couriers.

Another contestable point that came out at the trial was that the customs authorities at Don Muang had recorded the arrest on videotape, which was seen

TELEX - CUSTOMS BKK

URGENT

TWO D.D. SUSPECTS LEFT HK FOR BKK BY KE601 MARCH 17.

1. CHAN MING FAI, 7115/2494/6540, MALE. DOB: 2.4.51.

BRITISH P/P 388470.

2. RITA NIGHTINGALE, FEMALE. DOB: 13.10.53. BRITISH

P/P G-304589.

BOTH HAVE ONWARD TICKETS TO PARIS BY AF193 ON 19

MARCH. CHAN BELIEVED TO BE THE ESCORT AND NIGHTINGALE

THE COURIER. PL INTERCEPT AND ADVISE RESULTS.

SENT 19/3/77

AM

by a source who told Lyman that on the basis of that tape showing her shocked and surprised reaction, "he was sure the girl was not guilty." Tilleke & Gibbins had been unaware that such videotape recordings were being made at the airport

"It was a key piece of evidence," said Lyman, "and after many delays it was finally presented in court where we saw it for the first time. The key portions of the tape, according to our source, had been erased." He added: "We say that what was there would've helped her; they say it wouldn't have made any difference. It was Rita's word against theirs." Lyman further noted that because the information was unavailable at the time, it was never really brought forward as to how much a Chinese drug syndicate would tell a white girl about what she's doing and about who is involved.

Under Thai law, a court case cannot be reopened once the appellate process is completed, as Tilleke & Gibbins had indicated after the original verdict had been upheld by the Court of Appeals on July 21, 1978. Thus, when the fresh data came to light later, the law firm's only recourse was to petition for clemency. Submitted last March, this document crossed a succession of important desks before reaching His Majesty: first the prison warden, then the director-general of the Corrections

Dept., the Interior Ministry, the Cabinet and then the Privy Council, with recommendations made at each point. Clemency is not a determination of guilt or innocence — the courts do that — but simply an act of grace and mercy emanating from His Majesty.

Besides her attorneys, many other interested people were working on Nightingale's behalf, among them such British politicians as Barbara Castle, civil rights and religious groups, charitable organizations, a sympathetic press and many Thais and other private individuals around the world. Her case re-

A missing segment of the videotaped arrest showed her clearly shocked reaction

portedly was also raised by British Secretary of State for Foreign and Commonwealth Affairs Peter Blaker during his recent visit to Thailand.

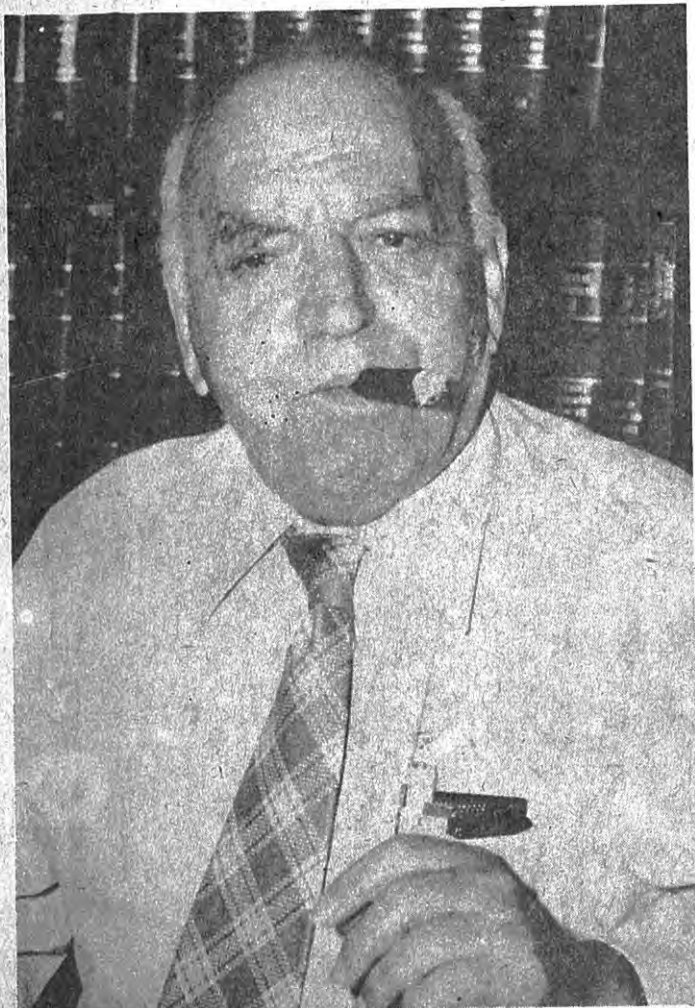
As for legal fees in what developed as a triangular effort by lawyers in Thailand, Britain and Hong Kong, Lyman said that only the Hong Kong firm of Johnson, Stokes & Masters had been paid — and then by Tilleke & Gibbins itself. The 78-year-old Bangkok law firm and its British associate on the Nightingale case, David Hallmark of Cutler & Hallmark in Worcester, England, have received no legal fees, he

said. In fact, Tilleke & Gibbins still has about 60,000 baht in out-of-pocket expenses yet to be reimbursed, though some were repaid earlier. Lyman acknowledged that Tilleke & Gibbins and Cutler & Hallmark have little choice at this point but to probably write off their legal fees. If she sells her story, Lyman said "no arrangements have been made for either firm to be reimbursed."

But Tilleke & Gibbins had never considered abandoning the case. "You should never give up hope," said Lyman. "It's very important, particularly when a lawyer believes his client is innocent. And we always believed that Rita Nightingale was innocent. That's something my father taught me: never give up hope." He added that "you get depressed at times, but something's going to happen and it did."

Why all the heavy press coverage and popular appeal for a young woman from a middle-class English family? "It just happened to catch the imagination of the British public," Lyman said, adding: "The name 'Nightingale' for one thing. She had worked in a hospital as a practical nurse. She was traveling on her own, trying to make her own way. She's before a court in the Orient. And she pleaded innocent — she didn't plead guilty. She made this clear from the beginning."

— Pat Ngamsnit



Tireless attorney Albert Lyman and ecstatic Nightingale: Fresh facts and a royal act of mercy.